

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Court
Southern District of Texas
FILED

OCT 29 2015

David J. Bradley, Clerk of Court

BRANDON BALL, DANVAL §
SCARBROUGH and §
KENNARD PIGGEE, §
Plaintiffs, §
v. §
§
TEXAS GUARDIAN §
INCORPORATED and §
AYMAN JARRAH §
Defendant. §

4:15cv3181
JURY TRIAL DEMANDED

PLAINTIFFS' ORIGINAL COMPLAINT

Plaintiffs Brandon Ball, Danval Scarbrough and Kennard Piggee now file this their Complaint against Defendants Texas Guardian Incorporated and Ayman Jarrah, alleging violations of 42 U.S.C. § 2000a and 42 U.S.C. § 1981. In support, Plaintiffs state as follows:

PARTIES

1. Plaintiff Brandon Ball ("Ball") is an African American, United States citizen who lives in Houston, Harris County, Texas.
2. Plaintiff Danval Scarbrough ("Scarbrough") is an African American, United States citizen who lives in Houston, Harris County, Texas.
3. Plaintiff Kennard Piggee ("Piggee") is an African American, United States citizen who lives in Houston, Harris County, Texas.

4. Defendant Texas Guardian Incorporated (“Texas Guardian”) is a domestic for Profit Corporation with its principal place of business in Houston, Texas. Texas Guardian Incorporated may be served with the Summons and Complaint through its registered agent for service of process, Ayman Jarrah, at 6202 Skyline Dr. Houston, TX 77057. Alternatively, Texas Guardian Incorporated may be served in accordance with the provisions of Rule 4 of the Federal Rules of Civil Procedure.

5. Defendant Ayman Jarrah (“Jarrah”) is the Director and President of Texas Guardian Incorporated. He may be served with the Summons and this Complaint by delivering the same to him at 6202 Skyline Dr., Houston, TX 77057, or wherever he may be found. Alternatively, Jarrah may be served in accordance with the provisions of Rule 4 of the Federal Rules of Civil Procedure.

JURISDICTION AND VENUE

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 2000a-6(a).

7. Venue is proper pursuant to 28 U.S.C. § 1391(b) because some or all of the events or omissions giving rise to this claim arose within this district.

FACTS

8. Gaslamp is a bar and lounge owned and operated by Texas Guardian.

9. On or about September 11, 2015, Ball, Scarbrough and Piggee arrived at Gaslamp and were directed by the security at the entrance that there would be a \$20 cover to gain admittance to the bar.

10. Ball, Scarbrough and Piggee declined to pay the \$20 admittance fee.

11. When the Plaintiffs were returning to their cars, they walked past the Gaslamp discovered that all white patrons to Gaslamp were allowed to enter the bar without paying a cover fee.

12. Conversely, non-white customers, African Americans, Asians, and Hispanic patrons, that the Plaintiffs observed attempting to gain entry into Gaslamp were directed to pay the \$20 admittance fee.

13. In so doing, the Defendants were refusing to do business with non-white customers, African Americans, Asians, and Hispanic patrons because of their race.

14. Ball, Scarbrough and Piggee were deeply offended by this racist and discriminatory treatment.

**FIRST CAUSE OF ACTION – DISCRIMINATION OR
SEGREGATION IN A PLACE OF PUBLIC ACCOMMODATION**

15. Plaintiffs incorporate each of the foregoing paragraphs as if fully set forth herein.

16. As set forth in 42 U.S.C. § 2000a(a), Plaintiffs are people entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation without discrimination or segregation on the ground of race, color, religion, or national origin.

17. Gaslamp is a place of public accommodation within the meaning of 42 U.S.C. § 2000a (b).

18. By virtue of the conduct described above, the Defendants deprived Plaintiffs of a right or privilege secured to them by 42 U.S.C. § 2000a.

19. Plaintiffs now sue under 42 U.S.C. § 2000a-3(a). Plaintiffs expressly requests that the Court permanently enjoin the Defendants from future acts of race-based discrimination with respect to which patrons they permit entry into their places of public accommodation.

20. The Defendants should allow Plaintiffs a reasonable attorney's fee as set forth in 42 U.S.C. § 2000a-3(b).

SECOND CAUSE OF ACTION – DENIAL OF EQUAL RIGHTS UNDER THE LAW

21. Plaintiffs incorporate each of the foregoing paragraphs as if fully set forth herein.

22. Plaintiffs are African Americans within the jurisdiction of the United States and were patrons of the Defendants.

23. As such, they were entitled to the same right to make and enforce contracts, without regard to her race.

24. Notwithstanding their rights under federal law, the Defendants chose instead to discriminate against Plaintiffs on the basis of their race by refusing to allow them to enter the establishment under the same terms as Caucasian patrons.

25. Plaintiffs have been damaged as a result of the discrimination against them.

26. The Defendants acted with malice or with reckless disregard for Plaintiffs' federally protected rights. An award of punitive damages is therefore appropriate.

27. Plaintiffs are also entitled to an award of reasonable and necessary attorney's fees as set forth in 42 U.S.C. § 1988(b).

THIRD CAUSE OF ACTION – NEGLIGENT SUPERVISION AND TRAINING

28. Plaintiffs incorporate each of the foregoing paragraphs as if fully set forth herein.

29. Defendants negligently hired, supervised and retained the employees whose conduct was a proximate cause of the Plaintiffs' damages.

JURY DEMAND

30. Plaintiffs demand a trial by jury with respect to all claims that are triable to a jury.

PRAYER

Accordingly, Plaintiffs respectfully requests that the Court:

- (a) Cite Defendants to appear and answer herein;
- (b) Grant judgment in their favor;
- (c) Enjoin the Defendants from further acts of race discrimination in the operation of public accommodations;
- (d) Award them compensatory damages and/or punitive damages;
- (e) Award them reasonable and necessary attorneys' fees;
- (f) Award them taxable court costs, including expert fees;
- (g) Award them pre- and post-judgment interest; and
- (h) Award all equitable and other relief to which Plaintiffs may show themselves entitled.

Respectfully submitted,

LAW OFFICES OF BRIAN TAGTMEIER



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Attorneys for Plaintiff

ATTORNEY FOR PLAINTIFFS

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Brandon Ball, Danval Scarbrough, Kennard Piggee Harris (b) County of Residence of First Listed Plaintiff Harris <small>(EXCEPT IN U.S. PLAINTIFF CASES)</small>		DEFENDANTS Texas Guardian Incorporated and Ayman Jarrah County of Residence of First Listed Defendant Harris <small>(IN U.S. PLAINTIFF CASES ONLY)</small>							
		<small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</small>							
(c) Attorney's (Firm Name, Address, and Telephone Number) Law Offices of Brian Tagmeier, 9002 Chimney Rock Suite G388, Houston, TX 77092 713.598.8442		Attorneys (If Known)							
II. BASIS OF JURISDICTION (Place an "X" in One Box Only)		III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) <small>(For Diversity Cases Only)</small>							
<input type="checkbox"/> 1 U.S. Government Plaintiff		<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)							
<input type="checkbox"/> 2 U.S. Government Defendant		<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)							
		Citizen of This State <input type="checkbox"/> 1 <input type="checkbox"/> 2 Incorporated or Principal Place of Business In This State <input type="checkbox"/> 4 <input type="checkbox"/> 5	PTF DEF						
		Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 3 Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 5 <input type="checkbox"/> 6	PTF DEF						
		Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 4 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 7	PTF DEF						
IV. NATURE OF SUIT (Place an "X" in One Box Only)									
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange				
	<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Eviction <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HTA (1395ft) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609			
						<input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes			
V. ORIGIN (Place an "X" in One Box Only)		<input checked="" type="checkbox"/> 1 Original Proceeding		<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
<small>Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):</small> 42 U.S.C. § 2000a-6(a)									
<small>Brief description of cause:</small> Racial discrimination in a place of public accommodation									
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23		DEMAND \$		<small>CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</small>			
VIII. RELATED CASE(S) IF ANY		<small>(See instructions):</small>		JUDGE		DOCKET NUMBER			
<small>DATE: October 29, 2015 SIGNATURE OF ATTORNEY OF RECORD</small>									
<small>FOR OFFICE USE ONLY</small>									
<small>RECEIPT #</small>		<small>AMOUNT</small>		<small>APPLYING IFP</small>		<small>JUDGE</small>		<small>MAG. JUDGE</small>	

JS 44 Reverse (Rev. 12/07)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. **(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.